

BALISOK & KAUFMAN, PLLC
251 Troy Avenue
Brooklyn, New York 11213
Phone: (718) 928-9607
Fax: (718) 534-9747
Proposed Attorneys for the Debtor and Debtor in Possession

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

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In re:

JUAN ALFARO DESIGN, INC,

Chapter 11

Case No. 19-42177-cec

Debtor.

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**NOTICE OF APPLICATION EMPLOY AND RETAIN BALISOK & KAUFMAN PLLC
AS ATTORNEYS FOR THE DEBTOR, NUNC PRO TUNC, AS OF THE FILING DATE**

PLEASE TAKE NOTICE that, upon the annexed motion of Joseph Y. Balisok, Esq., attorney for Juan Alfaro Design, Inc, (“Debtor”), the annexed exhibits, and Debtor’s affirmation in support, a motion will be made before the Honorable Carla E. Craig, Courtroom 3529, at the United States Bankruptcy Court for the Eastern District of New York, at the Conrad B. Duberstein Courthouse, 271-C Cadman Plaza East, Brooklyn, NY 11201, on Tuesday, June 11 2019, 2:00 p.m., for the entry of an order to employ and retain Balisok & Kaufman PLLC as attorneys for the debtor, nunc pro tunc, as of the filing date.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to enter an Order granting any of the relief herein requested, or if you want the court to consider your views on the motion, then on or before June 8, 2019, you or your attorney must:

1. File with the court a written request for a hearing *or, if the court requires a written response*, an answer, explaining your position, at:

United States Bankruptcy Court
Eastern District of New York
271-C Cadman Plaza East, Ste 1595
Brooklyn, New York 11201

2. If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above; You must also send a copy to:

Balisok & Kaufman, PLLC
251 Troy Avenue
Brooklyn, NY 11213

3. Attend the hearing scheduled to be held on Tuesday, June 11, 2019 at 2:00 p.m., in the United States Bankruptcy Court, located at 271-C Cadman Plaza East, Courtroom 3529, Brooklyn, New York 11201; and
4. Take any and all other steps required to oppose a motion under local rule or court order.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Dated: Brooklyn, New York
May 13, 2019

/s/ Joseph Y. Balisok

Joseph Y. Balisok
BALISOK & KAUFMAN, PLLC
251 Troy Avenue
Brooklyn, NY 11213
Telephone: (718) 928-9607
Facsimile: (718) 534-9747
joseph@lawbalisok.com

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

**Hearing Date: June 11, 2019
Hearing Time: 2:00 p.m. (EST)**

In re:

JUAN ALFARO DESIGN, INC,

Chapter 11

Debtor.

Case No. 19-42177-cec

X

**APPLICATION TO EMPLOY AND RETAIN BALISOK & KAUFMAN PLLC AS
ATTORNEYS FOR THE DEBTOR, NUNC PRO TUNC, AS OF THE FILING DATE**

**TO: THE HONORABLE CARLA E. CRAIG,
UNITED STATES BANKRUPTCY JUDGE:**

Juan Alfaro Design, Inc., the above-captioned debtor and debtor-in-possession (the “Debtor”), hereby submits this application (the “Application”) seeking entry of an order authorizing the Debtor’s retention of Balisok & Kaufman, PLLC (“BK”) as his attorneys. In support of its Application, the Debtor respectfully alleges as follows:

JURISDICTION

1. The Court has jurisdiction over this Motion under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). Venue of this proceeding and this Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

2. The statutory basis for the relief requested herein are sections 105(a), 363(b), 507(a)(3) and 507(a)(4) of Title 11 of the United States Code, 11 U.S.C., et seq. (the “Bankruptcy Code”).

BACKGROUND

3. On April 10, 2019, (the “Filing Date”), the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code (the “Chapter 11 Case”).

4. The Debtor has continued in possession of its property and the management of its business affairs as a debtor-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner or statutory committee has been appointed.

RELIEF REQUESTED

5. The Debtor seeks to retain BK as its attorneys to file and prosecute its Chapter 11 case and all related matters, effective as of the Filing date. Accordingly, the Debtor requests entry of an order in substantially the form annexed hereto as **Exhibit “B”** and pursuant to Bankruptcy Code §327(a) and Bankruptcy Rule 2014(a) authorizing the Debtor to employ and retain BK as its attorneys to perform services necessary in the Chapter 11 case.

6. The professional services BK will render to the Debtor include the following:
- a. To give advice to the Debtor with respect to its powers and duties as Debtor-in-Possession and the continued management of its property and affairs.
 - b. To negotiate with creditors of the Debtor and work out a plan of reorganization and take the necessary legal steps in order to effectuate such a plan including, if need be, negotiations with the creditors and other parties in interest.
 - c. To prepare the necessary answers, orders, reports and other legal papers required for the Debtor who seeks protection from its creditors under Chapter 11 of the Bankruptcy Code.
 - d. To appear before the Bankruptcy Court to protect the interest of the Debtor and to represent the Debtor in all matters pending before the Court.
 - e. To attend meetings and negotiate with representatives of creditors and other parties in interest.
 - f. To advise the Debtor in connection with any potential refinancing of secured debt and any potential sale of the business.
 - g. To represent the Debtor in connection with obtaining post-petition financing.
 - h. To take any necessary action to obtain approval of a disclosure statement and confirmation of a plan of reorganization.

i. To perform all other legal services for the Debtor which may be necessary for the preservation of the Debtor's estate and to promote the best interests of the Debtor, its creditors and its estate.

7. The Debtor has selected BK for the reason that BK's attorneys have had extensive experience representing debtors in proceedings before this Court and are well suited to represent the Debtor in the instant proceedings.

8. It is necessary for the Debtor to employ BK for such professional services pursuant to §327 of the Bankruptcy Code.

9. To the best of the Debtor's knowledge, BK has no connection with the creditors or any other party in interest or their attorneys. The affidavit of Joseph Y. Balisok, Esq. (the "Balisok Affidavit") as to his disinterestedness is annexed hereto as **Exhibit "A."**

10. To the best of the Debtor's knowledge, BK does not hold or represent any interest adverse to the Debtor's estate, BK is a "disinterested person" as defined in Bankruptcy Code §101(14), and BK's employment is necessary and in the best interest of the Debtor and its estate.

11. Subject to Court approval, compensation will be paid to BK for services provided on an hourly basis plus reimbursement of actual, necessary expenses incurred. BK Bankruptcy Practice Group's 2018 hourly rates for matters related to these Chapter 11 proceedings are as follows:

Attorneys - \$350.00 to \$500.00 per hour
Law Clerks/Paralegals - \$175.00 per hour

12. The hourly rates above are subject to periodic adjustment to reflect economic and other conditions. The hourly rates above are standard, if not below standard, rates for work of this nature. These rates are designed to fairly compensate BK for the work of its attorneys and paralegals and to cover fixed routine overhead expenses.

13. Prior to the Chapter 11 filing, BK received a retainer from the Debtor in the amount of \$12,000.00. Such payment was not on account of any pre-petition debt owed to BK.

14. BK will be paid for the legal services rendered upon application duly filed with this Court pursuant to Bankruptcy Code §330 and pursuant to the procedures established by the Order Pursuant to 11 U.S.C. Sections 105(a) and 331 Establishing Procedures for Monthly Compensation and Reimbursement of Expenses of Professionals as may be further entered by this Court.

15. The Debtor desires to employ BK pursuant to Bankruptcy Code §327 because of the extensive legal services, which are required and indeed are anticipated for a successful reorganization under Chapter 11 of the Bankruptcy Code.

WHEREFORE, the Debtor prays for an Order of this Court authorizing it to employ and appoint Balisok & Kaufman, PLLC to represent it in this proceeding under Chapter 11 of the Bankruptcy Code, nunc pro tunc, as of the Filing Date, together with such other and further relief as appears just to this Court, for all of which no previous application has been made.

Dated: Brooklyn, New York
May 13, 2019

DEBTOR

/s/ Juan Alfaro

By: Juan Alfaro
Title: CEO

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

JUAN ALFARO DESIGN, INC,

Chapter 11

Case No. 19-42177-cec

Debtor.

-----X

**AFFIDAVIT OF JOSEPH Y. BALISOK IN SUPPORT OF APPLICATION TO
EMPLOY AND RETAIN BALISOK & KAUFMAN PLLC AS ATTORNEYS
FOR THE DEBTOR, NUNC PRO TUNC, AS OF THE FILING DATE**

STATE OF NEW YORK)
)
) ss.:
COUNTY OF KINGS)

JOSEPH Y. BALISOK, being duly sworn, deposes and says:

1. I am an attorney duly admitted to practice before this Court and a partner of the firm Balisok & Kaufman PLLC, (“BK”), 251 Troy Avenue, Brooklyn, NY 11213.
2. I submit this Affidavit in support of the Application of Juan Alfaro Designs, Inc., the above-captioned debtor and debtor-in-possession (the “Debtor”) to Employ and Retain BK as Attorneys for the Debtor in connection with the above-captioned Chapter 11 case on the terms set forth in the accompanying Application.
3. Neither I, nor BK or any attorney at BK has any connection with the Debtor, its creditors, or any other party in interest herein or their respective attorneys.
4. Furthermore, neither I nor BK or any attorney at BK is a pre-petition creditor of the Debtor.
5. Based upon all of the foregoing, I respectfully submit that BK does not hold nor represent any interest adverse to the Debtor herein or its estate, in the matters upon which they are to be engaged.

6. BK shall make proper application to the Court for compensation for the services rendered to the Debtor in this proceeding pursuant to § 330 of the Bankruptcy Code and pursuant to the procedures established by the order pursuant to 11 U.S.C. Sections 105(a) and 331 Establishing Procedures for Monthly Compensation and Reimbursement of Expenses of Professionals as may be further entered by this Court.

Disinterestedness

7. To the best of my knowledge, the law firm of Balisok & Kaufman PLLC is a disinterested person within the meaning of § 101(14) of the Bankruptcy Code in that its members and associates (a) are not creditors, equity security holders or insiders of the Debtor, (b) are not and were not within two years before the Filing Date a director, officer or employee of the Debtor, (c) do not have an interest materially adverse to the interest of the estate, or any class of creditors or equity security holders by reason of any direct or indirect relationship to, connection with, or interest in the Debtor, or for any other reason.

Disclosure Procedures

8. In preparing this affidavit, a conflict search was conducted which compared a list of the Debtor's known creditors, members, directors, officers, debtors, and financial institutions, and the U.S. Trustee for Region 2, and members of his office (the “Potential Party List”) against BK’s database of all existing and prior matters and contacts (the “Database”). No parties on the Potential Party List were identified by Deponent as current or former clients of the firm, or in any way related, such that BK could not be opposed to them.

9. Insofar as I have been able to ascertain, BK is a disinterested party within the meaning of section 101(14) of the Bankruptcy Code, holds nor represents any adverse interest to and has no connections to the Debtor, the Debtor's estate, its creditors or any other party in interest herein or their respective attorneys and accountants with respect to matters for which BK is to be engaged, other than as specifically set forth above.
10. BK is not aware of any past or present relationship that would disqualify BK from representing the Debtor.

Billing Rates

11. BK's billing rates for 2019 are as follows:

Attorneys - \$350.00 to \$500.00 per hour
Law Clerks/Paralegals - \$175.00 per hour

12. BK shall promptly notify the Debtor, with a copy to the Office of the U.S. Trustee, of all changes in BK's billing rates.
13. BK received a pre-petition retainer from the Debtor in the total amount of \$12,000.00
None of the pre-petition retainer was paid towards or on account of any antecedent debt owed to the Deponent's firm by the Debtor within Bankruptcy Code §547 period.
Furthermore, no payments other than the pre-petition retainer were received by Deponent's firm within the Bankruptcy Code §547 period. Accordingly, Deponent submits that the pre-petition retainer received by Deponent's firm is not a preferential or otherwise avoidable payment and that neither Deponent nor Deponent's firm holds nor represents any adverse interest to the Debtor or its estate on matters in which Deponent seeks to be retained.
14. This retainer shall be applied towards Chapter 11 fees and expenses, and is therefore not to be considered an "evergreen retainer" as such term is more commonly known.

15. BK has agreed not to share compensation received in connection with the Debtor's proceeding with any other entity, except as permitted under the Bankruptcy Code for sharing among members and associates of BK.

WHEREFORE, your Deponent respectfully requests the entry of the order annexed to the Application as **Exhibit "B"**, together with such other and further relief as is proper.

/s/ Joseph Y. Balisok

Joseph Y. Balisok

Affirmed to before me this
13th day of May, 2019

/s/ Jesse L. Kaufman

Jesse L. Kaufman

Notary Public ~ State of New York

EXHIBIT B

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

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In re:

JUAN ALFARO DESIGN, INC,

Chapter 11

Case No. 19-42177-cec

Debtor.

-----X

**ORDER AUTHORIZING AND APPROVING RETENTION OF BALISOK &
KAUFMAN PLLC AS ATTORNEYS FOR DEBTOR AND DEBTOR-IN-POSSESSION
NUNC PRO TUNC AS OF THE PETITION DATE**

UPON the application, dated May 13, 2019 (the “Application”), of the above captioned debtor and debtor-in-possession (the “Debtor”), seeking to retain Balisok & Kaufman PLLC (“BK”) as attorneys to the Debtor pursuant to § 327(a) of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”) and Rule 2014 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”); and upon the Affidavit of Joseph Y. Balisok, Esq. sworn to on May 8, 2019 (the “Balisok Affidavit”); and the Court having found that BK neither holds nor represents an interest adverse to the Debtor or its estate, is disinterested within the meaning of § 101(14) of the Bankruptcy Code, and that its employment is necessary and would be in the best interest of the estate, it is hereby

ORDERED that the Application is granted as set forth herein; and it is further

ORDERED that, pursuant to § 327(a) of the Bankruptcy Code, the Debtor is authorized to retain BK as its attorneys in this case, *nunc pro tunc* to the Petition Date, on the terms and conditions set forth in the Application and Balisok Affidavit; and it is further

ORDERED that pursuant to section 327(a), t BK shall seek compensation for legal services and reimbursement of expenses upon an application to the Court, and upon notice and a hearing pursuant to §§ 330 and 331 of the Bankruptcy Code, and Bankruptcy Rule 2014 and

E.D.N.Y.L.B.R.2014-1 and the Guidelines of the Office of the United States Trustee; and it is further

ORDERED that prior to any increases in BK rates, BK shall file a supplemental affidavit with the Court and provide ten business days' notice to the Debtor, the United States Trustee and any official committee, which supplemental affidavit shall explain the basis for the requested rate increases in accordance with Section 330(a)(3)(F) of the Bankruptcy Code and state whether the Debtor has consented to the rate increase. The United States Trustee retains all rights to object to any rate increase on all grounds including, but not limited to, the reasonableness standard provided for in section 330 of the Bankruptcy Code, and all rates and rate increases are subject to review by the Court; and it is further

ORDERED, that BK shall apply any remaining amounts of its prepetition retainer as a credit toward post-petition fees and expenses, after such post-petition fees and expenses are approved pursuant to the first Order of the Court awarding fees and expenses to BK; and it is further

ORDERED that the Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order; and it is further

ORDERED that if there is any inconsistency between the terms of this Order, the Application, and the supporting Affidavit, the terms of this Order shall govern.

NO OBJECTION:

/s/
U.S. Trustee

Hon. Carla E. Craig
U.S. Chief Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

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In re:

JUAN ALFARO DESIGN, INC,

Chapter 11

Case No. 19-42177-cec

Debtor.

-----X

CERTIFICATE OF SERVICE

STATE OF NEW YORK)
) ss: Brooklyn
COUNTY OF KINGS)

I, Joseph Y. Balisok, hereby declare, under penalty of perjury under the laws of the United States of America, and pursuant to 28 U.S.C. § 1746, that on Monday, May 13, 2019, I caused to be served a copy of 1) **NOTICE OF APPLICATION TO EMPLOY AND RETAIN BALISOK & KAUFMAN PLLC AS ATTORNEYS FOR THE DEBTOR, NUNC PRO TUNC, AS OF THE FILING DATE**, by regular mail upon each of the parties listed on the “service-list” below by depositing true copies of same in sealed envelopes, with postage pre-paid thereon, in an official depository of the United States Postal Service within the borough of Brooklyn, in the City and State of New York.

Dated: Brooklyn, New York
May 13, 2019

Respectfully submitted,

/s/ Joseph Y. Balisok _____
Joseph Y. Balisok
Balisok & Kaufman, PLLC
Attorneys for Debtor
251 Troy Avenue
Brooklyn, NY 11213
Tel. No. (718) 928-9607
Fax No. (718) 534-9747
Email: joseph@lawbalisok.com

Service List

Rachel Wolf, Esq.
Office of the United States Trustee
201 Varick Street, Suite 1006
New York, NY 10014

150 Sullivan Street Realty, LLC
C/O HARVEY M GREENE ESQ
150 Sullivan St
Brooklyn, NY 11231-1113

Better Accounting Solutions
1650 Eastern Pkwy
Brooklyn, NY 11233-4804

Century Waste Services, LLC
623 Dowd Ave
Elizabeth, NJ 07201-2125

Chase Business
270 Park Ave
New York, NY 10017-2014

Con Edison
12 Gold St
Brooklyn, NY 11201

Financial Pacific Leasing
3455 S 344th Way
Auburn, WA 98001-9560

Forward Financing
100 Summer St # 1175
Boston, MA 02110-2106

Funding Circle
747 Front St Fl 4
San Francisco, CA 94111-1922

Kabbage, Inc.
130 W 25th St Fl 8
New York, NY 10001-7473

Lease Corporation of America
3150 Livernois Rd Ste 300

Troy, MI 48083-5000

Liberty Industrial Gases and Welding Supplies
600 Smith St
Brooklyn, NY 11231-2116

M. Ludvik Engineering PC
55 Washington St Ste 555
Brooklyn, NY 11201-1089

MCRL
162 Industrial Blvd Ste 2A
Hanson, MA 02341-1538

NATIONWIDE Insurance & Financial Service
7111 Northern Blvd
Jackson Heights, NY 11372-1046

Partners Capital Investment Group
1330 Avenue of the Americas Fl 22
New York, NY 10019-5494

Penn Stainless Products, Inc.
190 Kelly Rd
Quakertown, PA 18951-4208

Scottrade Bank Equipment Finance
Scottrade Bank
700 Maryville Centre Dr
Saint Louis, MO 63141-5824

Swift Capital
3505 Silverside Rd
Wilmington, DE 19810-4905

TCF Equipment Finance
11100 Wayzata Blvd Ste 801
Minnetonka, MN 55305-5503

Virtua Computers
112 W 34th St Fl 18
New York, NY 10120-0001

Wells Fargo Forklift Lease
420 Montgomery St
San Francisco, CA 94104-1207

Yarde Metals
999 Motor Pkwy
Hauppauge, NY 11788